

**REQUEST FOR PROPOSALS FOR PROFESSIONAL SERVICES  
TO PROVIDE COMPLIANCE AUDITING, ACCOUNTING AND RELATED  
SERVICES ISSUED BY THE LAWYERS' FUND FOR CLIENT PROTECTION OF THE  
DELAWARE SUPREME COURT**

**I. Overview**

The Lawyers' Fund for Client Protection of the Delaware Supreme Court (hereinafter "LFCP-DSC") seeks technical and financial proposals from qualified offerors to furnish compliance auditing, accounting, and related advisement and educational services for the Lawyers' Fund for Client Protection. This request for proposals ("RFP") is issued pursuant to 29 *Del. C.* §§ 6981 and 6982.

The proposed schedule of events subject to the RFP is outlined below:

Public Notice	Date: June 1, 2010 and June 8, 2010
Deadline for Receipt of Proposals	Date: July 1, 2010
Notification of Award	Date: September 1, 2010

All proposals must conform to the requirements of the Proposal Procedure and the Required Information Sections of this RFP. The Lawyers' Fund for Client Protection of the Delaware Supreme Court specifically reserves the right to waive any informalities or irregularities in the proposal format. Each proposal must be accompanied by a cover letter which briefly summarizes the proposing firm's interest in providing the required professional services. The cover letter must also clearly state and justify any exceptions to the requirements of the RFP which the applicant may have taken in presenting the proposal. Furthermore, the cover letter must attest to the fact that no activity related to this proposal contract will take place outside of the United States. The LFCP-DSC reserves the right to deny any and all exceptions taken to the RFP requirements.

## **II. Scope of Services**

**Introduction:** The Lawyers' Fund for Client Protection (LFCP) is a fund created by the Delaware Supreme Court (DSC) to provide monetary relief to clients who have suffered financial losses as a result of the dishonest conduct of lawyers. While acts of attorney dishonesty are the exceptions and not the rule, the LFCP was established to show the good faith of all the members of the Delaware Bar.

1) The LFCP-DSC contemplates a contract under which the selected individual or firm will perform compliance audits of selected attorneys' books and records, act as the accountant for the LFCP, assist the LFCP in updating policies and procedures as necessary and appropriate, educate attorneys on the importance of proper record keeping and participate in meetings and hearings as needed.

### Compliance Audits:

- Perform a total of sixty (60) compliance audits per year at a rate of no less than five (5) per month, using prescribed Audit Program (see Appendix A), to determine if the selected attorneys are in compliance with Rule 1.15 and Rule 1.15A of the Delaware Lawyers' Rules of Professional Conduct (See Appendices B and C). Provide written reports outlining compliance or non-compliance with each of the requirements.
- Follow-up with attorneys whose Compliance Audits uncovered violations. Such follow-up often involves additional audits. Provide written reports on findings.
- Perform special or investigative audits, as directed by the Office of Disciplinary Counsel. Provide written reports on findings.
- Prepare and submit an Audit Report to the Trustees of the LFCP on a quarterly basis identifying the status of Compliance Audits for the year.

### Accountant for the Lawyers' Fund for Client Protection:

- Review monthly and annual financial statements and other reports prepared by Executive Director of the LFCP.
- Prepare year-end reports.
- Prepare cash flow projections as required.

### Policies and Procedures:

- Update materials distributed to attorneys and others, as necessary and appropriate.
- Submit proposals for changes to rules, procedures, forms, etc., when appropriate.

#### Educational:

- Respond to inquiries from attorneys, their office staff, accountants and/or bookkeepers regarding compliance with Rules 1.15 (Appendix B) and 1.15A (Appendix C).
- Speak at seminars about compliance issues and proper record keeping for attorneys, their office staff, accountants and bookkeepers.
- Develop course for presentation to Certified Public Accountants (CPAs) to qualify them to perform pre-certification Compliance Audits.
- Write, as necessary and appropriate, articles for IN RE: (monthly journal for Delaware attorneys) about required procedures or compliance issues.

#### Meetings and Hearings:

- Attend approximately three to four (3-4) meetings of the Trustees of the LFCP per year. Comment on significant aspects of the LFCP financial statements, the Audit Report and other matters.
- Attend approximately two to three (2-3) LFCP Finance Committee Meetings per year. Discuss performance of stock and bond portfolios with LFCP money managers.
- Act as fact and/or expert witness at approximately three to four (3-4) Board on Professional Responsibility disciplinary hearings per year.

#### Certificates of Compliance:

- Annual review of Certificates of Compliance submitted by attorneys (Appendix D) to DSC.

#### Other:

- The successful individual or firm contracted shall not receive fees and/or commissions from any attorney and/or law firm being audited by the LFCP and/or the Office of Disciplinary Counsel.
- Term – The length of the contract term is three (3) years with two (2) one-year options.
- Fixed Monthly Rates – Monthly rates must be the same for each month of a contract year or longer.

## **2) Form of Contract**

Any contract resulting from this RFP must include the terms and conditions contained herein, subject to negotiation. Offers based upon different or inconsistent terms or conditions may be rejected.

## **3) Location of Services**

An office within the Delaware Supreme Court/Arms of the Court will be provided in the Carvel State Office Building in Wilmington, Delaware for the individual's or firm's use. However, the nature of the work requires travel throughout the state for site visits to perform audits at attorneys' offices. In addition, educational seminars will need to be presented in each county.

## **III. Required Information**

The following information shall be provided in each proposal in the order listed below. Failure to respond to any request for information within this proposal may result in rejection of the proposal at the sole discretion of the LFCP-DSC.

### **A. Minimum Requirements**

1. Delaware business license:  
Provide evidence of a Delaware business license or evidence of an application to obtain the business license.
2. Professional liability insurance:  
Provide evidence of professional liability insurance in the amount of \$1,000,000.00. The successful individual or firm may be required to secure and provide evidence of other insurance coverage in the amount of the funds administered on behalf of the LFCP.
3. Certified Public Accountant (CPA) License:  
Provide evidence of a current certified public accountant.

### **B. General Evaluation Requirements**

The following information shall be provided in each proposal in the order listed below. Failure to respond to any request for information may result in rejection of the proposal in the sole discretion of the LFCP-DSC:

- (1) Offeror shall provide a detailed description, resume or curriculum vitae outlining the individual's or firm's overall experience and reputation, including resume(s)/curriculum vitae of key personnel proposed to be assigned to this project.

- (2) Offeror shall provide detailed information regarding specific expertise of the individual or firm, and key personnel proposed to be assigned to this project, in any or all of the areas outlined under Section II “Scope of Service” of this RFP, particularly as it relates to work or projects within the public sector.
- (3) Offeror shall provide detailed information on the individual’s or firm’s capacity to meet the requirements outlined under Section II “Scope of Service” of this RFP, including, but not limited to, size of individual or firm, key personnel proposed to be assigned (including their resume(s)/curriculum vitae, see item (1) above under this section), number of other projects/assignments/clients that would be on-going concurrent with this project, etc.
- (4) Offeror shall provide the geographical location of its headquarters as well as any branch office(s) from which key personnel involved with this project will work. In addition, if the headquarters or branch office(s) of the offeror is outside of the State of Delaware, offeror shall describe in detail its work and travel plans it proposes to meet the requirements under Section II “Scope of Service”.
- (5) Offeror should provide specific examples of projects completed that demonstrate the individual’s or firm’s ability to perform the work described under Section II “Scope of Service,” particularly examples involving projects in the public sector.
- (6) Offeror should provide the proposed cost for providing the services outlined under Section II “Scope of Service” for a minimum of a three (3) year term. The offeror should also propose costs for the provision of such services up to a maximum of five (5) years so long as a schedule of costs for each contract year (Year 1, Year 2, Year 3, etc.) is outlined. The offeror shall provide the basis (fixed price, by unit, etc.) for the proposed cost to provide the services and any escalator used for subsequent contract years proposed.

#### **IV. Professional Services RFP Administrative Information**

##### **A. RFP Issuance**

##### **1. Obtaining Copies of the RFP**

This RFP is available in electronic form only through the State of Delaware Supreme Court website at <http://courts.delaware.gov/supreme>; Delaware Lawyers Fund for Client Protection website at <http://courts.delaware.gov/lfcpl> and the State of Delaware Procurement website at <http://bids.delaware.gov/>

**2. Public Notice**

Public notice has been provided in accordance with 29 *Del. C.* § 6981.

**3. Assistance to Vendors with a Disability**

Vendors with a disability may receive accommodation regarding the means of communicating this RFP or participating in the procurement process. For more information, contact the Designated Contact no later than ten days prior to the deadline for receipt of proposals.

**4. RFP Designated Contact**

All requests, questions, or other communications about this RFP shall be made in writing to the LFCP-DSC. Address all communications to the person listed below; communications made to other LFCP-DSC personnel or Trustees or attempting to ask questions by phone or in person will not be allowed or recognized as valid and may disqualify the vendor. Vendors should rely only on written statements issued by the RFP designated contact.

Bunny J. Christopher, Executive Director  
Lawyers' Fund for Client Protection  
of the Delaware Supreme Court  
Carvel State Office Building  
820 N. French Street, 11th Floor  
Wilmington, DE 19801

**5. Consultants and Legal Counsel**

The LFCP-DSC may retain consultants or legal counsel to assist in the review and evaluation of this RFP and the vendors' responses. Offerors shall not contact consultant or legal counsel on any matter related to the RFP.

**6. Contact with LFCP-DSC Employees**

Direct contact with LFCP-DSC employees other than the LFCP-DSC Designated Contact regarding this RFP is expressly prohibited without prior consent. Vendors directly contacting LFCP-DSC employees risk elimination of their proposal from further consideration. Exceptions exist only for organizations currently doing business in the State who require contact in the normal course of doing that business.

**7. Organizations Ineligible to Bid**

Any individual, business, organization, corporation, consortium, partnership, joint venture, or any other entity including subcontractors currently debarred or suspended is ineligible to bid. Any entity ineligible to conduct business in the State of Delaware for any reason is ineligible to respond to the RFP.

## **8. Exclusions**

The Proposal Review Committee reserves the right to refuse to consider any proposal from a vendor who:

- a)** Has been convicted for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of the contract or subcontract;
- b)** Has been convicted under State or Federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or other offense indicating a lack of business integrity or business honesty that currently and seriously affects responsibility as a State contractor;
- c)** Has been convicted or has had a civil judgment entered for a violation under State or Federal antitrust statutes;
- d)** Has violated contract provisions such as:
  - 1)** Knowing failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
  - 2)** Failure to perform or unsatisfactory performance in accordance with terms of one or more contracts;
- e)** Has violated ethical standards set out in law or regulation; and
- f)** Any other cause listed in regulations of the State of Delaware determined to be serious and compelling as to affect responsibility as a State contractor, including suspension or debarment by another governmental entity for a cause listed in the regulations.

## **B. RFP Submissions**

### **1. Acknowledgement of Understanding of Terms**

By submitting a bid, each vendor shall be deemed to acknowledge that it has carefully read all sections of this RFP, including all forms, schedules and exhibits hereto, and has fully informed itself as to all existing conditions and limitations.

### **2. Proposals**

To be considered, all proposals must be submitted in writing and must respond to the items outlined in this RFP using the requested format. The LFCP-DSC reserves the right to reject any non-responsive or non-conforming proposals. Each proposal must be submitted with 9 paper

copies in a sealed envelope conspicuously labeled “Lawyers’ Fund for Client Protection Proposal.” The envelope should also contain the name, address and telephone number of the proposing individual or firm. If delivered by mail, the proposal shall be enclosed in an inner envelope labeled as indicated above.

All properly sealed and marked proposals are to be sent to the LFCP-DSC and received no later than **4 PM DST on July 1, 2010**. The Proposals may be delivered by Express Delivery (e.g., FedEx, UPS, etc.) US Mail, or by hand to:

Bunny J. Christopher, Executive Director  
Lawyers’ Fund for Client Protection  
of the Delaware Supreme Court  
Carvel State Office Building  
820 N. French Street, 11th Floor  
Wilmington, DE 19801

Any proposal submitted by US Mail shall be sent by either certified or registered mail. Proposals must be received at the above address no later than **4 PM DST on July 1, 2010**. Any proposal received after this date shall not be considered and shall be returned unopened. The proposing vendor bears the risk of delays in delivery. The contents of any proposal shall not be disclosed as to be made available to competing entities during the negotiation process.

Upon receipt of vendor proposals, each vendor shall be presumed to be thoroughly familiar with all specifications and requirements of this RFP. The failure or omission to examine any form, instrument or document shall in no way relieve vendors from any obligation in respect to this RFP.

**3. Proposal Modifications**

Any changes, amendments or modifications to a proposal must be made in writing, submitted in the same manner as the original response and conspicuously labeled as a change, amendment or modification to a previously submitted proposal. Changes, amendments or modifications to proposals shall not be accepted or considered after the hour and date specified as the deadline for submission of proposals.

**4. Proposal Costs and Expenses**

The LFCP-DSC will not pay any costs incurred by any Vendor associated with any aspect of responding to this solicitation, including proposal preparation, printing or delivery, attendance at vendor’s conference, system demonstrations or negotiation process.



**5. Late Proposals**

Proposals received after the specified date and time will not be accepted or considered. To guard against premature opening, sealed proposals shall be submitted, plainly marked with the proposal title, vendor name, and time and date of the proposal opening. Evaluation of the proposals is expected to begin shortly after the proposal due date. To document compliance with the deadline, the proposal will be date and time stamped upon receipt.

**6. Proposal Opening**

The LFCP-DSC will receive proposals until the date and time shown in this RFP. Proposals will be opened only in the presence of the LFCP-DSC personnel. Any unopened proposals will be returned to Vendor.

There will be no public opening of proposals but a public log will be kept of the names of all vendor organizations that submitted proposals. The contents of any proposal shall not be disclosed to competing vendors prior to contract award.

**7. Non-Conforming Proposals**

Non-conforming proposals will not be considered. Non-conforming proposals are defined as those that do not meet the requirements of this RFP. The determination of whether an RFP requirement is substantive or a mere formality shall reside solely within the LFCP-DSC.

**8. Concise Proposals**

The LFCP-DSC discourages overly lengthy and costly proposals. It is the desire that proposals be prepared in a straightforward and concise manner. Unnecessarily elaborate brochures or other promotional materials beyond those sufficient to present a complete and effective proposal are not desired. The LFCP-DSC's interest is in the quality and responsiveness of the proposal.

**9. Realistic Proposals**

It is the expectation of the LFCP-DSC that vendors can fully satisfy the obligations of the proposal in the manner and timeframe defined within the proposal. Proposals must be realistic and must represent the best estimate of time, materials and other costs including the impact of inflation and any economic or other factors that are reasonably predictable.

The LFCP-DSC shall bear no responsibility or increase obligation for a vendor's failure to accurately estimate the costs or resources required to meet the obligations defined in the proposal.

**10. Confidentiality of Documents**

All documents submitted as part of the vendor's proposal will be deemed confidential during the evaluation process. Vendor proposals will not be available for review by anyone other than the LFCP-DSC/Proposal Review Committee or its designated agents. There shall be no disclosure of any vendor's information to a competing vendor during any interview or negotiations.

**11. Sub-Contracting**

LFCP-DSC will not permit the sub-contracting of the scope of work covered by the contract.

**12. Discrepancies and Omissions**

Vendor is fully responsible for the completeness and accuracy of their proposal, and for examining this RFP and all addenda. Failure to do so will be at the sole risk of vendor. Should vendor find discrepancies, omissions, unclear or ambiguous intent or meaning, or should any questions arise concerning this RFP, vendor shall notify the LFCP-DSC's Designated Contact, in writing, of such findings at least ten (10) days before the proposal opening. This will allow issuance of any necessary addenda. It will also help prevent the opening of a defective proposal and exposure of vendor's proposal upon which award could not be made. All unresolved issues should be addressed in the proposal.

Protests based on any omission or error, or on the content of the solicitation, will be disallowed if these faults have not been brought to the attention of the Designated Contact, in writing, no later than ten (10) calendar days prior to the time set for opening of the proposals.

**13. LFCP-DSC's Right to Reject Proposals**

The LFCP-DSC reserves the right to accept or reject any or all proposals or any part of any proposal, to waive defects, technicalities or any specifications (whether they be in the LFCP-DSC's specifications or vendor's response), to sit and act as sole judge of the merit and qualifications of each product offered, or to solicit new proposals on the same project or on a modified project which may include portions of the originally proposed project as the LFCP-DSC may deem necessary in the best interest of the LFCP-DSC.

**14. LFCP-DSC's Right to Cancel Solicitation**

The LFCP-DSC reserves the right to cancel this solicitation at any time during the procurement process, for any reason or for no reason. The LFCP-DSC makes no commitments expressed or implied, that this process will result in a business transaction with any vendor.

This RFP does not constitute an offer by the LFCP-DSC. Vendor's participation in this process may result in the LFCP-DSC selecting your organization to engage in further discussions and negotiations toward execution of a contract. The commencement of such negotiations does not, however, signify a commitment by the LFCP-DSC to execute a contract nor to continue negotiations. The LFCP-DSC may terminate negotiations at any time and for any reason, or for no reason.

**15. Notification of Withdrawal of Proposal**

Vendor may modify or withdraw its proposal by written request, provided that both proposal and request is received by the LFCP-DSC prior to the proposal due date. Proposals may be re-submitted in accordance with the proposal due date in order to be considered further.

Proposals become the property of the LFCP-DSC at the proposal submission deadline. All proposals received are considered firm offers at that time.

**16. Revisions to the RFP**

If it becomes necessary to revise any part of the RFP, an addendum will be posted on the State of Delaware's website <http://courts.delaware.gov/supreme>; <http://courts.delaware.gov/lfcop> and <http://bids.delaware.gov/>. The LFCP-DSC is not bound by any statement related to this RFP made by any LFCP-DSC employee, contractor or its agents.

**17. Exceptions to the RFP**

Any exceptions to the RFP, or the LFCP-DSC's terms and conditions, must be highlighted and included in writing in the proposal. Acceptance of exceptions is within the sole discretion of the evaluation committee.

**18. Award of Contract**

The final award of a contract is subject to approval by the DSC. The DSC has the sole right to select the successful vendor(s) for award, to reject any proposal as unsatisfactory or non-responsive, to award a contract to other than the lowest priced proposal or not to award a contract, as a result of this RFP.

Notice in writing to a vendor of the acceptance of its proposal by the LFCP-DSC and the subsequent full execution of a written contract will constitute a contract, and no vendor will acquire any legal or equitable rights or privileges until the occurrence of both such events.

**a. RFP Award Notifications**

After reviews of the evaluation committee report and its recommendation, and once the contract terms and conditions have been finalized, the DSC will award the contract.

The contract shall be awarded to the vendor whose proposal is most advantageous, taking into consideration the evaluation factors set forth in the RFP.

It should be explicitly noted that the LFCP-DSC is not obligated to award the contract to the vendor who submits the lowest bid of the vendor who receives the highest total point score, rather the contract will be awarded to the vendor whose proposal is the most advantageous to the LFCP-DSC. The award is subject to the appropriate State of Delaware approvals.

After a final selection is made, the winning vendor will be invited to negotiate a contract with the LFCP-DSC; remaining vendors will be notified in writing of their selection status.

**C. RFP Evaluation Process**

A review committee composed of representatives of the LFCP-DSC will evaluate proposals on a variety of quantitative criteria. Neither the lowest price nor highest scoring proposal will necessarily be selected.

The LFCP-DSC reserves full discretion to determine the competence and responsibility, professionally and/or financially, of vendors. Vendors are to provide in a timely manner any and all information that the LFCP-DSC may deem necessary to make a decision.

**1. Proposal Review Committee**

The Proposal Review Committee shall be comprised of the Trustees of the Lawyers' Fund for Client Protection and designees of the Delaware Supreme Court. The Committee shall determine which individuals or firms meet the minimum requirements pursuant to selection criteria of the RFP and procedures established in 29 Del. C. Sections 6981, 6982. The Committee shall interview at least one of the qualified individuals or firms. The Committee may negotiate with one or more individuals or firms during the same period and may, at its discretion, terminate negotiations with any or all individuals or firms. The Committee shall make a recommendation regarding the award to the Delaware Supreme Court who shall have final authority, subject to the provisions of this RFP and 29 Del. C. Section 6982, to award a contract to the successful individual or firm in the best interests of the State of Delaware and the Lawyers' Fund for Client Protection.

## **2. Proposal Selection Criteria**

The Proposal Review Committee shall assign up to the maximum number of points for each Evaluation Item to each of the proposing vendor's proposals. All assignments of points shall be at the sole discretion of the Proposal Review Committee.

The proposals all contain the essential information on which the award decision shall be made. The information required to be submitted in response to this RFP has been determined by the LFCP-DSC to be essential for use by the Committee in the bid evaluation and award process. Therefore, all instructions contained in this RFP shall be met in order to qualify as a responsive and responsible contractor and participate in the Proposal Review Committee's consideration for award. Proposals which do not meet or comply with the instructions of this RFP may be considered non-conforming and deemed non-responsive and subject to disqualification at the sole discretion of the Committee.

The Committee reserves the right to:

- Select for contract or for negotiations a proposal other than that with lowest costs.
- Reject any and all proposals or portions of proposals received in response to this RFP or to make no award or issue a new RFP.
- Waive or modify any information, irregularity, or inconsistency in proposals received.
- Request modification to proposals from any or all vendors during the contract review and negotiation.
- Negotiate any aspect of the proposal with any vendor and negotiate with more than one vendor at the same time.

### **a. Criteria Weight**

All proposals shall be evaluated using the same criteria and scoring process. The following criteria shall be used by the Review Committee to evaluate proposals:

Evaluation Item	Maximum Points
1) Experience and Reputation - Offeror shall provide a detailed description, resume or curriculum vitae outlining the individual's or firm's overall experience and reputation, including resume(s)/curriculum vitae of key personnel proposed to be assigned to this project.	25
2) Expertise (particular to project under consideration) - Offeror shall provide detailed information regarding specific expertise of the individual or firm, and key personnel proposed to be assigned to this project, in any or all of the areas outlined under Section II "Scope of Service" of this RFP, particularly as it relates to work or projects within the public sector.	15
3) Capacity to meet requirements (size, financial condition, etc.) - Offeror shall provide detailed information on the individual's or firm's capacity to meet the requirements outlined under Section II "Scope of Service" of this RFP, including, but not limited to, size of individual or firm, key personnel proposed to be assigned (including their resume(s)/curriculum vitae, see 1) above under this section), number of other projects/assignments/clients that would be on-going concurrent with this project, etc.	15
4) Location (geographical) - Offeror shall provide the geographical location of its headquarters as well as any branch office(s) from which key personnel involved with this project will work. In addition, if the headquarters or branch office(s) of the offeror is outside of the State of Delaware, offeror shall describe in detail its work and travel plans so as to meet the requirements under Section II "Scope of Service".	15
5) Demonstrated Ability - Offeror shall provide specific examples of projects completed that demonstrate the individual's or firm's ability to perform the work described under Section II "Scope of Service," particularly examples involving projects in the public sector.	15
6) Proposed Cost – Proposal Review Committee's opinion regarding the Offeror's proposed cost resulting in a quality, cost effective program.	15

**TOTAL POINTS**

**100 Points**

**3. Proposal Clarification**

The Review Committee may contact any vendor in order to clarify uncertainties or eliminate confusion concerning the contents of a proposal. Proposals may not be modified as a result of any such clarification request.

**4. References**

The Review Committee may contact any customer of the vendor, whether or not included in the vendor's reference list, and use such information in the evaluation process.

**5. Oral Presentations**

Selected vendors may be invited to make oral presentations to the Review Committee. The vendor representative(s) attending the oral presentation shall be technically qualified to respond to questions related to the proposed system and its components.

**D. Contract Terms and Conditions**

**1. General Information**

- a. The term of the contract between the successful bidder and the DSC shall be for three (3) years with two (2) extensions for a period of one year for each extension.
- b. The selected vendor will be required to enter into a written agreement with the LFCP-DSC. The LFCP-DSC reserves the right to incorporate standard State contractual provisions into any contract negotiated as a result of a proposal submitted in response to this RFP. Any proposed modifications to the terms and conditions of the standard contract are subject to review and approval by the LFCP-DSC. Vendors will be required to sign the contract for all services, and may be required to sign additional agreements.
- c. The selected vendor or vendors will be expected to enter negotiations with the LFCP-DSC, which will result in a formal contract between parties. Procurement will be in accordance with subsequent contracted agreement. This RFP and the selected vendor's response to this RFP will be incorporated as part of any formal contract.
- d. The successful vendor shall promptly execute a contract incorporating the terms of this RFP. No vendor is to begin any service prior to execution of the contract.

- e. If the vendor to whom the award is made fails to enter into the agreement as herein provided, the award will be annulled, and an award may be made to another vendor. Such vendor shall fulfill every stipulation embraced herein as if they were the party to whom the first award was made.

**2. Collusion or Fraud**

Any evidence of agreement or collusion among vendor(s) and prospective vendor(s) acting to illegally restrain freedom from competition by agreement to offer a fixed price, or otherwise, will render the offers of such vendor(s) void.

By responding, the vendor shall be deemed to have represented and warranted that its proposal is not made in connection with any competing vendor submitting a separate response to this RFP, and is in all respects fair and without collusion or fraud; that the vendor did not participate in the RFP development process and had no knowledge of the specific contents of the RFP prior to its issuance; and that no employee or official of the LFCP-DSC participated directly or indirectly in the vendor's proposal preparation.

Advance knowledge of information which gives any particular vendor advantages over any other interested vendor(s), in advance of the opening of proposals, whether in response to advertising or an employee or representative thereof, will potentially void that particular proposal.

**3. Lobbying and Gratuities**

Lobbying or providing gratuities shall be strictly prohibited. Vendors found to be lobbying, providing gratuities to, or in any way attempting to influence a LFCP-DSC employee or agent of the LFCP-DSC concerning this RFP or the award of a contract resulting from this RFP shall have their proposal immediately rejected and shall be barred from further participation in this RFP.

The selected vendor will warrant that no person or selling agency has been employed or retained to solicit or secure a contract resulting from this RFP upon agreement or understanding for a commission, or a percentage, brokerage or contingent fee. For breach or violation of this warranty, the LFCP-DSC shall have the right to annul any contract resulting from this RFP without liability or at its discretion deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

All contact with LFCP-DSC employees, contractors or agents of the LFCP-DSC concerning this RFP shall be conducted in strict accordance with the manner, forum and conditions set forth in this RFP.

**4. Solicitation of LFCP-DSC Employees**

Until contract award, vendors shall not, directly or indirectly, solicit any employee of the LFCP-DSC to leave the LFCP-DSC's employ in order to accept employment with the vendor, its affiliates, actual or prospective contractors, or



any person acting in concert with vendor, without prior written approval of the LFCP-DSC's contracting officer. Solicitation of LFCP-DSC employees by a vendor may result in rejection of the vendor's proposal.

This paragraph does not prevent the employment by a vendor of a LFCP-DSC employee who has initiated contact with the vendor. However, LFCP-DSC employees may be legally prohibited from accepting employment with the contractor or subcontractor under certain circumstances. Vendors may not knowingly employ a person who cannot legally accept employment under state or federal law. If a vendor discovers that they have done so, they must terminate that employment immediately.

## **5. General Contract Terms**

### **a. Independent contractors**

The parties to the contract shall be independent contractors to one another, and nothing herein shall be deemed to cause this agreement to create an agency, partnership, joint venture or employment relationship between parties. Each party shall be responsible for compliance with all applicable workers compensation, unemployment, disability insurance, social security withholding and all other similar matters. Neither party shall be liable for any debts, accounts, obligations or other liability whatsoever of the other party, or any other obligation of the other party to pay on the behalf of its employees or to withhold from any compensation paid to such employees any social benefits, workers compensation insurance premiums or any income or other similar taxes.

It may be at the LFCP-DSC's discretion as to the location of work for the contractual support personnel during the project period. The LFCP-DSC shall provide working space and sufficient supplies and material to augment the Contractor's services.

### **b. Non-Appropriation**

In the event the General Assembly fails to appropriate the specific funds necessary to enter into or continue the contractual agreement, in whole or part, the agreement shall be terminated as to any obligation of the LFCP-DSC requiring the expenditure of money for which no specific appropriation is available at the end of the last fiscal year for which no appropriation is available or upon the exhaustion of funds.

### **c. Licenses and Permits**

In performance of the contract, the vendor will be required to comply with all applicable federal, state and local laws, ordinances, codes, and regulations. The cost of permits and other relevant costs required in the performance of the contract shall be borne by the successful vendor. The

vendor shall be properly licensed and authorized to transact business in the State of Delaware as provided in 30 *Del. C.* § 2301.

Prior to receiving an award, the successful vendor shall either furnish the LFCP-DSC with proof of State of Delaware Business Licensure or initiate the process of application where required. An application may be requested in writing to: Division of Revenue, Carvel State Building, P.O. Box 8750, 820 N. French Street, Wilmington, DE 19899 or by telephone to one of the following numbers: (302) 577-8200—Public Service, (302) 577-8205—Licensing Department.

Information regarding the award of the contract will be given to the Division of Revenue. Failure to comply with the State of Delaware licensing requirements may subject vendor to applicable fines and/or interest penalties.

**d. Notice**

Any notice to the LFCP-DSC required under the contract shall be sent by registered mail to:

Bunny J. Christopher, Executive Director  
Lawyers' Fund for Client Protection  
of the Delaware Supreme Court  
Carvel State Office Building  
820 N. French Street, 11<sup>th</sup> Floor  
Wilmington, DE 19801

**e. Indemnification**

By submitting a proposal, the proposing vendor agrees that in the event it is awarded a contract, it will indemnify and otherwise hold harmless the State of Delaware, its agencies, agents and employees from any and all liability, suits, actions, or claims, together with all costs, expenses for attorney's fees, arising out of the vendor's its agents and employees' performance work or services in connection with the contract, regardless of whether such suits, actions, claims or liabilities are based upon acts or failures to act attributable, in whole or part, to the State, its agencies, employees or agents.

**f. Insurance**

1. Vendor recognizes that it is operating as an independent contractor and that it is liable for any and all losses, penalties, damages, expenses, attorney's fees, judgments, and/or settlements incurred by reason of injury to or death of any and all persons, or injury to

any and all property, of any nature, arising out of the vendor's negligent performance under this contract, and particularly without limiting the foregoing, caused by, resulting from, or arising out of any act of omission on the part of the vendor in their negligent performance under this contract.

2. The vendor shall maintain such insurance as will protect against claims under Worker's Compensation Act and from any other claims for damages for personal injury, including death, which may arise from operations under this contract. The vendor is an independent contractor and is not an employee of the State of Delaware.
3. During the term of this contract, the vendor shall, at its own expense, carry insurance minimum limits as follows:

a.	Comprehensive General Liability	\$1,000,000
b.	Professional Liability/Misc. Error & Omissions	\$1,000,000/\$3,000,000

If the contractual service requires the transportation of State clients or staff, the vendor shall, in addition to the above coverages, secure at its own expense the following coverage:

a.	Automotive Liability (Bodily Injury)	\$100,000/\$300,000
b.	Automotive Property Damage (to others)	\$ 25,000

4. The vendor shall provide a certificate of insurance as proof that the vendor has the required insurance.

**g. Performance Requirements**

The selected Vendor will warrant that its possesses, or has arranged through subcontractors, all capital and other equipment, labor, materials, and licenses necessary to carry out and complete the work hereunder in compliance with any and all Federal and State laws, and County and local ordinances, regulations and codes.

**h. Warranty**

The Vendor will provide a warranty that the deliverables provided pursuant to the contract will function as designed for a period of no less than one (1) year from the date of system acceptance. The warranty shall require the Vendor correct, at its own expense, the setup, configuration,

customizations or modifications so that it functions according to the LFCP-DSC's requirements.

**i. Costs and Payment Schedules**

All contract costs must be as detailed specifically in the Vendor's cost proposal. No charges other than as specified in the proposal shall be allowed without written consent of the LFCP-DSC. The proposal costs shall include full compensation for all taxes that the selected vendor is required to pay.

The LFCP-DSC will require a payment schedule based on defined and measurable milestones. Payments for services will not be made in advance of work performed. The LFCP-DSC may require holdback of contract monies until acceptable performance is demonstrated (as much as 25%).

**j. Penalties**

The LFCP-DSC may include in the final contract penalty provisions for non-performance, such as liquidated damages.

**k. Termination for Cause.**

If for any reasons, or through any cause, the Vendor fails to fulfil in timely and proper manner his obligations under the contract, or if the Vendor violates any of the covenants, agreements or stipulations of the contract, the LFCP-DSC shall thereupon have the right to terminate the contract by giving written notice to the Vendor of such termination and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports or other material prepared by the Vendor under the contract shall, at the option of the LFCP-DSC, become its property, and the Vendor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials which is useable to the LFCP-DSC.

**l. Termination for Convenience**

The LFCP-DSC may terminate the contract at any time by giving written notice of such termination and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys,

drawings, maps, models, photographs and reports or other material prepared by the Vendor under the contract shall, at the option of the LFCP-DSC, become its property, and the Vendor shall be entitled to compensation for any satisfactory work completed on such documents and other materials which is useable to the LFCP-DSC. If the contract is terminated by the LFCP-DSC as so provided, the Vendor will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Vendor as covered by the contract, less payments of compensation previously made. Provided however, that if less than 60 percent of the services covered by the contract have been performed upon the effective date of termination, the Vendor shall be reimbursed (in addition to the above payment) for that portion of actual out of pocket expenses (not otherwise reimbursed under the contract) incurred by the Vendor during the contract period which are directly attributable to the uncompleted portion of the services covered by the contract.

**m. Non-discrimination**

In performing the services subject to this RFP the vendor will agree that it will not discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin. The successful vendor shall comply with all federal and state laws, regulations and policies pertaining to the prevention of discriminatory employment practice. Failure to perform under this provision constitutes a material breach of contract.

**n. Covenant against Contingent Fees**

The successful vendor will warrant that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement of understanding for a commission or percentage, brokerage or contingent fee excepting bona-fide employees, bona-fide established commercial or selling agencies maintained by the Vendor for the purpose of securing business. For breach or violation of this warranty the LFCP-DSC shall have the right to annul the contract without liability or at its discretion to deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

**o. Vendor Activity**

No activity is to be executed in an off shore facility, either by a subcontracted firm or a foreign office or division of the vendor. The vendor must attest to the fact that no activity will take place outside of the United States in its transmittal letter. Failure to adhere to this requirement is cause for elimination from future consideration.

**p. Work Product**

All materials and products developed under the executed contract by the vendor are the sole and exclusive property of the State. The vendor will seek written permission to use any product created under the contract.

**q. Contract Documents**

The RFP, the purchase order, the executed contract and any supplemental documents between the LFCP-DSC and the successful vendor shall constitute the contract between the LFCP-DSC and the vendor. In the event there is any discrepancy between any of these contract documents, the following order of documents governs so that the former prevails over the latter: contract, LFCP-DSC's RFP and any addenda, Vendor's response to the RFP and purchase order. No other documents shall be considered. These documents will constitute the entire agreement between the LFCP-DSC and the vendor.

**r. Applicable Law**

The laws of the State of Delaware shall apply, except where Federal Law has precedence. The successful vendor consents to jurisdiction and venue in the State of Delaware.

In submitting a proposal, Vendors certify that they comply with all federal, state and local laws applicable to its activities and obligations including:

- (1) the laws of the State of Delaware;
- (2) the applicable portion of the Federal Civil Rights Act of 1964;
- (3) the Equal Employment Opportunity Act and the regulations issued there under by the federal government;
- (4) a condition that the proposal submitted was independently arrived at, without collusion, under penalty of perjury; and
- (5) that programs, services, and activities provided to the general public under resulting contract conform with the Americans with Disabilities Act of 1990, and the regulations issued there under by the federal government.

If any vendor fails to comply with (1) through (5) of this paragraph, the LFCP-DSC reserves the right to disregard the proposal, terminate the contract, or consider the vendor in default.

The selected vendor shall keep itself fully informed of and shall observe and comply with all applicable existing Federal and State laws, and County and local ordinances, regulations and codes, and those laws, ordinances, regulations, and codes adopted during its performance of the work.

**s. Scope of Agreement**

If the scope of any provision of the contract is determined to be too broad in any respect whatsoever to permit enforcement to its full extent, then such provision shall be enforced to the maximum extent permitted by law, and the parties hereto consent and agree that such scope may be judicially modified accordingly and that the whole of such provisions of the contract shall not thereby fail, but the scope of such provisions shall be curtailed only to the extent necessary to conform to the law.

**t. Other General Conditions**

(1) **Changes** – No alterations in any terms, conditions, delivery, price, quality, or specifications of items ordered will be effective without the written consent of the LFCP-DSC.

(2) **Additional Terms and Conditions** – The LFCP-DSC reserves the right to add terms and conditions during the contract negotiations.

**E. RFP Miscellaneous Information**

**1. No Press Releases or Public Disclosure**

Vendors may not release any information about this RFP. The LFCP-DSC reserves the right to pre-approve any news or advertising releases concerning this RFP, the resulting contract, the work performed, or any reference to the LFCP-DSC with regard to any project or contract performance. Any such news or advertising releases pertaining to this RFP or resulting contract shall require the prior express written permission of the LFCP-DSC.

**2. Definitions of Requirements**

To prevent any confusion about identifying requirements in this RFP, the following definition is offered: The words *shall*, *will* and/or *must* are used to designate a mandatory requirement. Vendors must respond to all mandatory requirements presented in the RFP. Failure to respond to a mandatory requirement may cause the disqualification of your proposal.

## APPENDIX A



## SUGGESTED REPORT FORMAT

(Independent CPA letterhead)

(Date)

Executive Director, Lawyers' Fund for Client Protection  
Carvel State Office Building  
820 North French Street, 11<sup>th</sup> Floor  
Wilmington, DE 19801

Re: (Name of Attorney or Firm)  
(Address)

Dear Executive Director:

We have performed an audit of our client, noted above, for the specific purpose of determining their (his/her) compliance with Rule 1.15 of the Delaware Lawyers' Rules of Professional Conduct. The audit procedures used were those contained in the Audit Program of the Lawyers' Fund for Client Protection and this report relates only to those items.

Based on our audit, there were no findings/exceptions, and in our opinion (attorney/firm name) is in compliance with Rule 1.15 of the Delaware Lawyers' Rules of Professional Conduct.

or

Based on our audit, (attorney/firm name) is not in compliance with Rule 1.15 of the Delaware Lawyers' Rules of Professional Conduct. We found the following exceptions:

- 1)
- 2)
- 3)

These exceptions will be resolved as follows:

(Attorney/firm name) understands that our audit and submission of this report does not preclude an audit performed by the auditor of the Lawyers' Fund for Client Protection.

Enclosed is a copy of a completed Audit Program with appropriate work papers.

Very truly yours,

(CPA firm signature)

# **LAWYERS' FUND FOR CLIENT PROTECTION**

## **Audit Program to Determine Compliance with Rule 1.15 and Rule 1.5(f) of the Delaware Lawyers' Rules of Professional Conduct**

**This completed audit program must be attached to your report.**

Attorney \_\_\_\_\_ Audit Date \_\_\_\_\_

Audited by (Firm Name) \_\_\_\_\_

### **AUDIT OBJECTIVES**

#### **GENERAL**

- I Attorney is in compliance with Rule 1.15 and Rule 1.5(f) and has properly answered all of the statements on the CERTIFICATE OF COMPLIANCE.

#### **SPECIFIC**

##### **A. NON-FIDUCIARY FUNDS**

1. Attorney maintains financial control over law practice.
2. Proper records are maintained.
3. Reconciliations are performed each month.

##### **B. FIDUCIARY FUNDS**

1. Client funds are safeguarded.
2. Proper records are maintained.
3. Reconciliations are performed each month.
4. There is no commingling of attorney funds and client funds.
5. Interest earned on client funds is either credited and/or paid to the client or the interest is credited and paid to IOLTA.

**LAWYERS' FUND FOR CLIENT PROTECTION  
AUDIT PROGRAM**

Audit Objective	AUDIT PROCEDURES	Performed by or N/A	Finding/ Exception	Work- paper Index												
I	<p><b>GENERAL</b></p> <p>1. Obtain a copy of the latest ANNUAL REGISTRATION STATEMENT and the latest CERTIFICATE OF COMPLIANCE filed with the Supreme Court. (These forms are due by March 1 of each year)</p> <p>a. If these forms were not filed when due, attach an explanation from the attorney indicating the date they will be filed.</p> <p>b. Verify that all questions are answered properly.</p> <p>c. A "NO" answer to any of the items on the CERTIFICATE OF COMPLIANCE indicates non-compliance. If there is a "NO" answer to any item, attach a letter from the attorney explaining the reason for non-compliance and a statement indicating when the attorney will be in compliance.</p> <p>2. Verify that all bank accounts (both fiduciary and non-fiduciary) are listed on the ANNUAL REGISTRATION STATEMENT and that all bank accounts for funds held in connection with the practice of law in Delaware are used solely for that purpose.</p> <p>a. Obtain and attach to the audit report a copy of the first page of the latest bank statement for each bank account which the attorney or a member of the law firm has power to control, draw on or deposit in (including not only open accounts, but also any accounts open at any time during the prior calendar year).</p> <p>b. If any bank accounts which the attorney or a member of the law firm has power to control, draw on or deposit in, (including not only open accounts, but also any accounts open at any time during the prior calendar year) is not listed, note here the omitted bank account information requested on the ANNUAL REGISTRATION STATEMENT.</p> <table border="0" style="width: 100%;"> <tr> <td style="text-align: center; width: 33%;">BANK NAME</td> <td style="text-align: center; width: 33%;">ACCOUNT NAME</td> <td style="text-align: center; width: 33%;">ACCOUNT NO.</td> </tr> <tr> <td>_____</td> <td>_____</td> <td>_____</td> </tr> <tr> <td>_____</td> <td>_____</td> <td>_____</td> </tr> <tr> <td>_____</td> <td>_____</td> <td>_____</td> </tr> </table> <p>c. If a bank account, maintained in connection with the practice of law in Delaware, is located outside the state of Delaware, note here and indicate purpose.</p> <p>d. If a bank account, maintained in connection with the practice of law in Delaware, also contains funds for the practice of law in another jurisdiction, note here and indicate purpose.</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>	BANK NAME	ACCOUNT NAME	ACCOUNT NO.	_____	_____	_____	_____	_____	_____	_____	_____	_____			
	BANK NAME	ACCOUNT NAME	ACCOUNT NO.													
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**LAWYERS' FUND FOR CLIENT PROTECTION**  
**AUDIT PROGRAM**

Audit Objective	AUDIT PROCEDURES	Performed by or N/A	Finding/Exception	Work-paper Index
I	<p><b>GENERAL (CONTINUED)</b></p> <p>3. Verify that all books and records which establish compliance are retained for a minimum period of five years after the completion of the year to which they relate. Fiduciary records must be retained for at least five years following the completion of the fiduciary obligation.</p> <p>4. Indicate form of practice:  <input type="checkbox"/> Sole proprietorship    <input type="checkbox"/> Professional corporation  <input type="checkbox"/> Partnership                 <input type="checkbox"/> Other: _____</p> <p>5. If firm name implies partnership or association form of practice, determine that records are maintained and tax returns are filed accordingly, i.e., as a firm and not as individual practitioners.</p>			
A1	<p>6. Inquire whether all federal, state, and city income and gross receipts tax returns have been filed and paid on a timely basis.</p>			

**LAWYERS' FUND FOR CLIENT PROTECTION  
AUDIT PROGRAM**

Audit Objective	AUDIT PROCEDURES	Performed by or N/A	Finding/ Exception	Work- paper Index
	<p><b>NON-FIDUCIARY FUNDS</b></p> <p><i>The period of review of records of non-fiduciary funds transactions should be, at a minimum, the latest six months. Use separate audit program page for each account.</i></p> <p>ACCOUNT NAME _____</p> <p>BANK _____</p> <p>BANK ACCOUNT NO. _____</p> <p>REVIEW PERIOD: From _____ to _____</p> <p><b>A2</b> 1. Inquire whether the minimum required records are maintained for at least five years following the completion of the year to which they relate. These records are:</p> <p style="padding-left: 40px;">a. Bank statements, deposit tickets, and cancelled checks (or images and/or copies thereof as provided by the bank)</p> <p style="padding-left: 40px;">b. Cash receipts and cash disbursements journals</p> <p style="padding-left: 40px;">c. Monthly cash reconciliations</p> <p><b>A1</b> 2. Obtain bank statements and review for NSF checks or overdraft balances other than those caused by deposits of client payments which were covered by the client or the attorney without undue delay. Attach detailed listing, if any, with the attorney's explanation.</p> <p><b>A2</b> 3. Obtain cash receipts journal.</p> <p style="padding-left: 40px;">a. Determine that entries identify source and date.</p> <p style="padding-left: 40px;">b. Ascertain that journal has monthly totals.</p> <p style="padding-left: 40px;">c. Determine that cash receipts entries can be proved to deposit totals.</p> <p><b>A2</b> 4. For each bank account, obtain cash disbursements journal.</p> <p style="padding-left: 40px;">a. Determine that entries show date, payee, and expense type.</p> <p style="padding-left: 40px;">b. Ascertain that journal has monthly totals.</p> <p><b>A3</b> 5. Audit monthly cash and bank reconciliations.</p> <p style="padding-left: 40px;">a. Manual system:</p> <p style="padding-left: 80px;">+ beginning cash balance</p> <p style="padding-left: 80px;">+ cash receipts (-) cash disbursements</p> <p style="padding-left: 80px;">= ending cash balance/checkbook balance</p> <p style="padding-left: 80px;">= adjusted bank balance</p> <p style="padding-left: 80px;">-or-</p> <p style="padding-left: 80px;">general ledger balance = adjusted bank balance</p> <p style="padding-left: 40px;">b. Computer system:</p> <p style="padding-left: 80px;">Check register (or general ledger) balance = adjusted bank balance</p>			

**LAWYERS' FUND FOR CLIENT PROTECTION  
AUDIT PROGRAM**

Audit Objective	AUDIT PROCEDURES	Performed by or N/A	Finding/Exception	Work-paper Index
	<p><b>FIDUCIARY FUNDS</b></p> <p><i>The period of review of records of fiduciary funds transactions should be, at a minimum, the latest six months. Use separate audit program page for each account.</i></p> <p>ACCOUNT NAME _____</p> <p>BANK _____</p> <p>BANK ACCOUNT NO. _____</p> <p>REVIEW PERIOD: From _____ to _____</p> <p><b>B2</b> 1. Inquire whether the minimum required records are maintained for at least five years following the completion of the fiduciary obligation. These records are:</p> <p style="padding-left: 40px;">a. Bank statements, deposit tickets, records of electronic transfers, and cancelled checks (or images and/or copies thereof as provided by the bank). Records of all electronic transfers from fiduciary accounts shall include the name of the person authorizing transfer, the date of transfer, the name of recipient and confirmation from the banking institution confirming the number of the fiduciary account from which the funds are withdrawn and the date and time the request for transfer was completed.</p> <p style="padding-left: 40px;">b. Cash receipts and cash disbursements journals</p> <p style="padding-left: 40px;">c. Client subsidiary ledgers</p> <p style="padding-left: 40px;">d. Monthly trial balances of subsidiary ledger</p> <p style="padding-left: 40px;">e. Monthly cash reconciliations</p> <p><b>B1</b> 2. Obtain bank statements and review for NSF checks or overdraft balances. If any, attach detailed listing with attorney's explanation. (Disbursements from fiduciary accounts must be made from "good" funds.)</p> <p><b>B5</b> 3. Determine if IOLTA account. If not, and an interest-earning account, make certain that interest is credited to clients. <i>NOTE: Interest earned on client funds CANNOT be retained by the attorney.</i></p> <p><b>B2</b> 4. Obtain cash receipts journal.</p> <p style="padding-left: 40px;">a. Determine that entries identify source and date.</p> <p style="padding-left: 40px;">b. Ascertain that journal has monthly totals.</p> <p style="padding-left: 40px;">c. Determine that cash receipts entries can be proved to deposit totals.</p> <p><b>B2</b> 5. Obtain cash disbursements journal.</p> <p style="padding-left: 40px;">a. Determine that entries show date, payee, and client name.</p> <p style="padding-left: 40px;">b. Ascertain that journal has monthly totals.</p> <p><b>B3</b> 6. Audit monthly bank reconciliations and review list of outstanding checks for those more than six months old. Inquire whether a good faith effort has been made to determine why these checks have not cleared the bank. Prepare listing of checks more than six months old and note reasons why they are still outstanding. <i>NOTE: See Supreme Court Rule 73 for disposition of old, undeliverable fiduciary account outstanding checks.</i></p>			

**LAWYERS' FUND FOR CLIENT PROTECTION  
AUDIT PROGRAM**

Audit Objective	AUDIT PROCEDURES	Performed by or N/A	Finding/ Exception	Work- paper Index
	<p><b>FIDUCIARY FUNDS (CONTINUED)</b></p> <p><b>B2</b> 7. Review client subsidiary ledger.  <i>NOTE: If a separate bank account has been set up for a specific client, transactions for that client must be recorded in a separate ledger account.</i></p> <p>a. Determine that a separate account is maintained for each client for whom monies or other property have been received in trust.</p> <p>b. Ascertain that all fiduciary transactions for cash receipts and cash disbursements (showing date, source/payee, and amount) are entered in the subsidiary ledger.</p> <p>c. Verify that a listing is prepared each month from the subsidiary ledger. The listing must show: Client name, client balance, and the grand total of all client balances.</p> <p><b>B4</b> 8. Determine if any attorney funds are in the fiduciary account.  <i>NOTE: The attorney may maintain funds sufficient to pay bank service charges; however, such amount may not exceed \$1000 and must be separately stated and accounted for on the monthly listing.</i></p> <p><b>B2</b> 9. Inquire whether the attorney has received any property for safekeeping from a client, other than cash. If so, verify whether a subsidiary ledger account has been set up showing date of receipt or disbursement, description of property received or disbursed, and the amount or value.</p> <p><b>B3</b> 10. Verify that the reconciled end-of-month cash balance (see fiduciary audit procedure no. 6) agrees with the total of all client funds being held (see fiduciary audit procedure no. 7c).</p> <p><b>B1</b> 11. Examine monthly listing of client balances for the following:</p> <p>a. Determine if any negative client balances (monies disbursed for client in excess of monies received for client). If any, attach details with attorney's explanation.  <i>NOTE: A negative client balance indicates that other client funds are being used to fund the negative balance. A check should be drawn immediately from the operating account and deposited in the fiduciary account to cover the negative balance.</i></p> <p>b. Determine age of client balances. If old balance, request reasons why funds have not been disbursed. Review documentation in client files, if necessary, to determine if good faith effort has been made to locate client and disburse funds.  <i>NOTE: See Supreme Court rule for disposition of old, unclaimed client balances and old fiduciary account undeliverable, outstanding checks.</i></p> <p><b>B1, B4</b> c. Ascertain that no client balance represents fees earned by the attorney.  <i>NOTE: The failure to remove earned fees from the fiduciary account on a timely basis represents commingling of client funds and attorney funds.</i></p>			

**LAWYERS' FUND FOR CLIENT PROTECTION  
AUDIT PROGRAM**

Audit Objective	AUDIT PROCEDURES	Performed by or N/A	Finding/ Exception	Work- paper Index
	<b>FIDUCIARY FUNDS (CONTINUED)</b>			
<b>B5</b>	<b>12.</b> If any client funds are of significant amount and are held for a significant period of time, verify that a separate interest-earning bank account has been set up and the client was credited with the interest earned.			
<b>B1</b>	<b>13.</b> To test the timely deposit of client funds, select five deposits from bank statements or deposit tickets and trace to supporting documentation in client files. <i>NOTE: Attach work paper, documenting test, to completed audit program.</i>			
<b>B1</b>	<b>14.</b> Perform the following to test the proper disbursement of client funds: <ul style="list-style-type: none"> <li>a. Select five cases from the client subsidiary ledger or monthly listing.</li> <li>b. Review documentation in client files that support financial transactions.</li> <li>c. Examine cancelled checks (or images and/or copies thereof as provided by the bank) and records of electronic transfers to verify disbursements.</li> </ul> <i>NOTE: Attach work paper, documenting test, to completed audit program.</i>			
<b>A1</b>	<b>15.</b> Review federal, state, and city payroll tax returns and tax depositories to verify the timely filing and payment of payroll taxes.			
<b>I</b>	<b>RETAINERS (Rule 1.5(f) and Comment)</b>			
<b>B4</b>	<b>16.</b> Inquire whether the attorney accepts retainers (payments in advance of a service being performed and prior to fee being earned).			
	<b>17.</b> Ascertain that retainers are being deposited in the escrow account. <ul style="list-style-type: none"> <li>a. On a sample basis, trace deposits of large amount in operating account to transfer checks issued as earned fees from the escrow account.</li> </ul> <i>NOTE: (1) In some situations (see Comment section of Rule 1.5(f)), retainers less than \$2,500 may be deposited in the operating account. (2) Attach work paper, documenting test, to completed audit program.</i>			
<b>B2</b>	<b>18.</b> Obtain copy of retainer agreement and determine that the agreement states: <ul style="list-style-type: none"> <li>a. The fee is refundable if not earned.</li> <li>b. The basis under which the fee shall be considered to be earned.</li> </ul>			
<b>B1</b>	<b>19.</b> Make certain that, when earned fees are withdrawn from the escrow account, a statement is provided to the client showing the amount withdrawn and the remaining balance of the unearned retainer.			



**LAWYERS' FUND FOR CLIENT PROTECTION  
AUDIT PROGRAM**

Audit Objective	AUDIT PROCEDURES	Performed by or N/A	Finding/ Exception	Work- paper Index
	<p><b>REAL ESTATE FUNDS</b></p> <p>NOTE: (1) A real estate bank account is a fiduciary account.  (2) This audit program page is only necessary if a separate bank account is used exclusively for real estate settlement transactions.  (3) Cash receipts and disbursements journals are not required for an account used exclusively for real estate settlement transactions.</p> <p>ACCOUNT NAME _____  BANK _____  BANK ACCOUNT NO. _____</p> <p>REVIEW PERIOD: From _____ to _____</p>			
<b>B2</b>	<p>1. Inquire whether the minimum required records are maintained for at least five years following the completion of the real estate transaction. These records are:</p>			
<b>B1</b>	<p>a. Bank statements, deposit tickets, records of electronic transfers, and cancelled checks (or images and/or copies thereof as provided by the bank). Records of all electronic transfers from fiduciary accounts shall include the name of the person authorizing transfer, the date of transfer, the name of recipient and confirmation from the banking institution confirming the number of the fiduciary account from which the funds are withdrawn and the date and time the request for transfer was completed.</p>			
<b>B5</b>	<p>b. Settlement sheets  c. Other related documents</p>			
<b>B3</b>	<p>2. Obtain bank statements and review for NSF checks or overdraft balances. If any, attach detailed listing with attorney's explanation. (Disbursements from fiduciary accounts must be made from "good" funds.)</p>			
	<p>3. Determine if IOLTA account. If not, and interest-earning account, make certain that interest is credited to clients.  NOTE: Interest earned on client funds CANNOT be retained by the attorney.</p>			
<b>B3</b>	<p>4. Audit monthly bank reconciliations and review list of outstanding checks for those more than six months old. Inquire whether a good faith effort has been made to determine why these checks have not cleared the bank. Prepare listing of checks more than six months old and note reasons why they are still outstanding.  NOTE: See Supreme Court Rule 73 for disposition of old, undeliverable fiduciary account outstanding checks.</p>			
<b>B1</b>	<p>5. If the adjusted bank balance is a positive number, verify that it is in agreement with the total of the listing, by client, of funds being held.  NOTE: This is a required monthly procedure.</p>			
	<p>6. Perform the following to test whether deposits and disbursements are timely and proper.</p> <p>a. Select five real estate settlements.  b. Vouch deposits to supporting documentation.</p>			

**LAWYERS' FUND FOR CLIENT PROTECTION  
AUDIT PROGRAM**

Audit Objective	AUDIT PROCEDURES	Performed by or N/A	Finding/ Exception	Work- paper Index
<b>B1</b>	<b>REAL ESTATE FUNDS (CONTINUED)</b>			
	<p data-bbox="272 327 1128 420"> <b>c.</b> Examine cancelled checks and compare to documentation.  <i>NOTE: Attach work paper, documenting test, to completed audit program.</i> </p>			

**LAWYERS' FUND FOR CLIENT PROTECTION**  
**AUDIT PROGRAM**

INQUIRIES ANSWERED BY:

NAME

POSITION

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## APPENDIX B

Rule 1.15 SAFEKEEPING PROPERTY  
Delaware Lawyers' Rules of Professional Conduct

(a) A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property. **Funds shall be kept in a separate account designated solely for funds held in connection with the practice of law in this jurisdiction. Such funds shall be maintained in the state in which the lawyer's office is situated, or elsewhere with the consent of the client or third person.** Funds of the lawyer that are reasonably sufficient to pay bank charges may be deposited therein; however, such amount may not exceed **\$1,000** and must be separately stated and accounted for in the same manner as clients' funds deposited therein. Other property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of five years after the completion of the events that they record.

(b) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this Rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.

(c) When in the course of representation a lawyer is in possession of property in which both the lawyer and another person claim interests, the property shall be kept separate by the lawyer until there is an accounting and severance of their interests. If a dispute arises concerning their respective interests, the portion in dispute shall be kept separate by the lawyer until the dispute is resolved.

(d) A lawyer engaged in the private practice of law must maintain financial books and records on a current basis, and shall preserve the books and records for at least five years following the completion of the year to which they relate, or, as to fiduciary books and records, five years following the completion of that fiduciary obligation. The maintenance of books and records must conform with the following provisions:

**(1) All bank statements, cancelled checks (or images and/or copies thereof as provided by the bank), records of electronic transfers, and duplicate deposit slips relating to fiduciary and non-fiduciary accounts must be preserved. Records of all electronic transfers from fiduciary accounts shall include the name of the person authorizing transfer, the date of transfer, the name of**

recipient and confirmation from the banking institution confirming the number of the fiduciary account from which the funds are withdrawn and the date and time the request for transfer was completed.

(2) Bank accounts maintained for fiduciary funds must be specifically designated as "Rule 1.15A Attorney Trust Account" or "1.15A Trust Account" or "Rule 1.15A Attorney Escrow Account" or "1.15A Escrow Account," and must be used only for funds held in a fiduciary capacity. A designation of the account as a "Rule 1.15A Attorney Trust Account" or "1.15A Trust Account" or "Rule 1.15A Attorney Escrow Account" or "1.15A Escrow Account," must appear in the account title on the bank statement. Other related statements, checks, deposit slips, and other documents maintained for fiduciary funds, must contain, at a minimum, a designation of the account as "Attorney Trust Account" or "Attorney Escrow Account."

(3) Bank accounts and related statements, checks, deposit slips, and other documents maintained for non-fiduciary funds must be specifically designated as "Attorney Business Account" or "Attorney Operating Account," and must be used only for funds held in a non-fiduciary capacity. A lawyer in the private practice of law shall maintain a nonfiduciary account for general operating purposes, and the account shall be separate from any of the lawyer's personal or other accounts.

(4) All records relating to property other than cash received by a lawyer in a fiduciary capacity shall be maintained and preserved. The records must describe with specificity the identity and location of such property.

(5) All billing records reflecting fees charged and other billings to clients or other parties must be maintained and preserved.

(6) Cash receipts and cash disbursement journals must be maintained and preserved for each bank account for the purpose of recording fiduciary and non-fiduciary transactions. A lawyer using a manual system for such purposes must total and balance the transaction columns on a monthly basis.

(7) A monthly reconciliation for each bank account, matching totals from the cash receipts and cash disbursement journals with the ending check register balance, must be performed. The reconciliation procedures, however, shall not be required for lawyers using a computer accounting system or a general ledger.

(8) The check register balance for each bank account must be reconciled monthly to the bank statement balance.

(9) With respect to all fiduciary accounts:

(A) A subsidiary ledger must be maintained and preserved with a separate account for each client or third party in which cash receipts and cash disbursement transactions and monthly balances are recorded.

(B) Monthly listings of client or third party balances must be prepared showing the name and balance of each client or third party, and the total of all balances.

(C) No funds disbursed for a client or third party must be in excess of funds received from that client or third party. If, however, through error funds disbursed for a client or third party exceed funds received from that client or third party, the lawyer shall transfer funds from the non-fiduciary account in a timely manner to cover the excess disbursement.

(D) The reconciled total cash balance must agree with the total of the client or third party balance listing. There shall be no unidentified client or third party funds. The bank reconciliation for a fiduciary account is not complete unless there is agreement with the total of client or third party accounts.

(E) If a check has been issued in an attempt to disburse funds, but remains outstanding (that is, the check has not cleared the trust or escrow bank account) six months or more from the date it was issued, a lawyer shall promptly take steps to contact the payee to determine the reason the check was not deposited by the payee, and shall issue a replacement check, as necessary and appropriate. With regard to abandoned or unclaimed trust funds, a lawyer shall comply with requirements of Supreme Court Rule 73.

(F) No funds of the lawyer shall be placed in or left in the account except as provided in Rule 1.15(a).

**(G) No funds which should have been disbursed shall remain in the account, including, but not limited to, earned legal fees, which must be transferred to the lawyer's non-fiduciary account on a prompt and timely basis when earned.**

(H) When a separate real estate bank account is maintained for settlement transactions, and when client or third party funds are received but not yet disbursed, a listing must be prepared on a monthly basis showing the name of the client or third party, the balance due to each client or third party, and the total of all such balances. The total must agree with the reconciled cash balance.

**(10) If a lawyer maintains financial books and records using a computer system, the lawyer must cause to be printed each month a hard copy of all monthly journals, ledgers, reports, and reconciliations, and/or cause to be created each month an electronic backup of these documents to be stored in such a manner as to make them accessible for review by the lawyer and/or the auditor for the Lawyers' Fund for Client Protection.**

(e) A lawyer's financial books and records must be subject to examination by the auditor for the Lawyers' Fund for Client Protection, for the purpose of verifying the accuracy of a certificate of compliance filed each year by the lawyer pursuant to Supreme Court Rule 69. The examination must be conducted so as to preserve, insofar as is consistent with these Rules, the confidential nature of the lawyer's books and records. If the lawyer's books and records are not located in Delaware, the lawyer may have the option either to produce the books and records at the lawyer's office in Delaware or to produce the books and records at the location outside of Delaware where they are ordinarily located. If the production occurs outside of Delaware, the lawyer shall pay any additional expenses incurred by the auditor for the purposes of an examination.

(f) A lawyer holding client funds must initially and reasonably determine whether the funds should or should not be placed in an interest-bearing depository account for the benefit of the client. In making such a determination, the lawyer must consider the financial interests of the client, the costs of establishing and maintaining the account, any tax reporting procedures or requirements, the nature of the transaction involved, the likelihood of delay in the relevant proceedings, whether the funds are of a nominal amount, and whether the funds are expected to be held by the lawyer for a short period of time. A lawyer must at reasonable intervals consider whether changed circumstances would warrant a different determination with respect to the deposit of client funds. Except as provided in these Rules, interest earned on client funds placed into an interest-bearing depository account for the benefit of the client (less any deductions for service charges or other fees of the depository institution) shall belong to the client whose funds are deposited, and the lawyer shall have no right or claim to such interest.



(g) A lawyer holding client funds who has reasonably determined, pursuant to subsection (f) of this Rule, that such funds need not be deposited into an interest-bearing depository account for the benefit of the client must maintain a pooled interest-bearing depository account for the deposit of the funds; provided, however, that this requirement shall not apply to a lawyer who either has obtained inactive status pursuant to Supreme Court Rule 69(d), or has obtained a Certificate of Retirement pursuant to Supreme Court Rule 69(f), or has formally elected to opt out of this requirement in accordance with the procedure set forth below in subparagraph (k).

(h) A lawyer who maintains such a pooled account shall comply with the following:

(1) The account shall include only client's funds which are nominal amount or are expected to be held for a short period of time.

(2) No interest from such an account shall be made available to a lawyer or law firm.

(3) Lawyers or law firms depositing client funds in a pooled interest-bearing account under this paragraph (h) [(g)] shall direct the depository institution:

(a) To remit interest, net any service charges or fees, as computed in accordance with the institution's standard accounting practice, at least quarterly, to the Delaware Bar Foundation; and

(b) To transmit with each remittance to the Delaware Bar Foundation a statement showing the name of the lawyer or law firm on whose accounting remittance is sent and the rate of interest applied; with a copy of statement to be transmitted to the lawyer or law firm by the Delaware Bar Foundation.

(i) The funds transmitted to the Delaware Bar Foundation shall be available for distribution for the following purposes:

(1) To improve the administration of justice;

(2) To provide and to enhance the delivery of legal services to the poor;

(3) To support law related education;

(4) For each other purposes that serve the public interest.

The Delaware Bar Foundation shall recommend for the approval of the Supreme Court of the State of Delaware, such distributions as it may deem appropriate. Distributions shall be made only upon the Court's approval.

(j) Lawyers or law firms, depositing client funds in a pooled interest-bearing depository account under this paragraph shall not be required to advise the client of such deposit or of the purposes to which the interest accumulated by reason of such deposits is to be directed.

(k) The procedure available for opting out of the requirement to maintain pooled interest bearing accounts are as follows:

(1) Prior to December 15, 1983, a lawyer wishing to decline to maintain a pooled interest-bearing account[s] described in this paragraph for any calendar year may do so by submitting a Notice of Declination in writing to the Clerk of the Supreme Court *ab initio* or before December 15 of the preceding calendar year. Any such submission shall remain effective, unless revoked and need not be renewed for any ensuing year.

(2) Any lawyer who has not filed a Notice of Declination on or before December 15, 1983, may elect not to maintain a pooled interest-bearing depository account for client funds as required and instead to maintain a pooled depository account for such funds that does not bear interest or that bears interest solely for the benefit of the clients who deposited the funds by certifying that the lawyer or law firm opts out of the obligation to comply with the requirements by timely submission of the Annual Registration Statement required by Supreme Court Rule 69(b)(i). Any such certification shall release the lawyer or law firm submitting it from participation effective as of the date that the certification is submitted and it shall remain effective until revoked as set forth below without need for renewal for any ensuing year.

(3) Notwithstanding the foregoing provisions of this subparagraph, any lawyer or law firm may petition the Court at any time and, for good cause shown, may be granted leave to opt out of the obligation to comply with the mandatory requirements of this paragraph.

(l) An election to opt out of the obligation to comply with paragraph (h) hereof may be revoked at any time upon the opening by a non-participating lawyer or law firm of a pooled interest-bearing account as previously described and due notification thereof to the Court Administrator of the Supreme Court pursuant to Supreme Court Rule 69(g).

**(m) A lawyer shall not disburse fiduciary funds from a bank account unless the funds deposited in the lawyer's fiduciary account to be disbursed, or the funds which are in the lawyer's unrestricted possession**

**and control and are or will be timely deposited, are good funds as hereinafter defined. "Good funds" shall mean:**

- (1) cash;
- (2) electronic fund ("wire") transfer;
- (3) certified check;
- (4) bank cashier's check or treasurer's check;
- (5) U.S. Treasury or State of Delaware Treasury check;
- (6) Check drawn on a separate trust or escrow account of an attorney engaged in the private practice of law in the State of Delaware held in a fiduciary capacity, including his or her client's funds;
- (7) Check of an insurance company that is authorized by the Insurance Commissioner of Delaware to transact insurance business in Delaware;
- (8) Check in an amount no greater than \$ 10,000.00;
- (9) Check greater than \$ 10,000.00, which has been actually and finally collected and may be drawn against under federal or state banking regulations then in effect;
- (10) Check drawn on an escrow account of a real estate broker licensed by the state of Delaware up to the limit of guarantee provided per transaction by statute.

## APPENDIX C

Rule 1.15A. Trust account overdraft notification

**(a)** Every attorney practicing or admitted to practice in this jurisdiction shall designate every account into which attorney trust or escrow funds are deposited either as 'Rule 1.15A Attorney Trust Account' or '1.15A Trust Account' or 'Rule 1.15A Attorney Escrow Account' or '1.15A Escrow Account,' pursuant to Rule 1.15(d)(2).

**(b)** Bank accounts designated as 'Rule 1.15A Attorney Trust Account' or '1.15A Trust Account' or 'Rule 1.15A Attorney Escrow Account' or '1.15A Escrow Account,' pursuant to Rule 1.15(d)(2) shall be maintained only in financial institutions approved by the Lawyers' Fund for Client Protection (the "Fund").

**(c)** The Supreme Court may establish rules governing approval and termination of approved status for financial institutions and the Fund shall annually publish a list of approved financial institutions. No trust or escrow account shall be maintained in any financial institution that does not agree to make such reports. Any such agreement shall apply to all branches of the financial institution and shall not be canceled except upon thirty (30) days notice in writing to the Fund.

**(d)** The overdraft notification agreement shall provide that all reports made by the financial institution shall be in the following format:

(1) In the case of a dishonored instrument, the report shall be identical to the overdraft notice customarily forwarded to the depositor, and shall include a copy of the dishonored instrument to the ODC no later than seven (7) calendar days following a request for the copy by the ODC.

(2) In the case of instruments that are presented against insufficient funds, but which instruments are honored, the report shall identify the financial institution, the attorney or law firm, the account number, the date of presentation for payment, and the date paid, as well as the amount of the overdraft created thereby.

**(e)** Reports shall be made simultaneously with, and within the time provided by law for, notice of dishonor. If an instrument presented against insufficient funds is honored, then the report shall be made within seven (7) calendar days of the date of presentation for payment against insufficient funds.

**(f)** Every attorney practicing or admitted to practice in this jurisdiction shall, as a condition thereof, be conclusively deemed to have consented to the reporting and production requirements mandated by this rule.

(g) Nothing herein shall preclude a financial institution from charging a particular attorney or law firm for the reasonable costs of producing the reports and records required by this rule.

(h) The terms used in this section are defined as follows:

(1) "Financial institution" includes banks, savings and loan associations, credit unions, savings banks and any other business or persons which accept for deposit funds held in trust by attorneys.

(2) "Properly payable" refers to an instrument which, if presented in the normal course of business, is in a form requiring payment under the laws of Delaware.

(3) "Notice of dishonor" refers to the notice which a financial institution is required to give, under the laws of Delaware, upon presentation of an instrument which the institution dishonors.

## APPENDIX D

**2010**  
**DELAWARE SUPREME COURT**  
**CERTIFICATE OF COMPLIANCE**

**Note:** Inactive and Emeritus Lawyers are not required to file Certificates of Compliance.

**Some DEFINITIONS To Keep In Mind**

Identity of Property. The identity and location of client funds and other property must be maintained at all times. [Comment 7(c) to Rule 1.15.]

Negative Balances. The disbursement of funds in an amount greater than the amount being held for such results in a negative balance in the trust/escrow account. [Comment 7(e) to Rule 1.15.]

“Firm” or “Law Firm”. “Firm” or “Law Firm” denotes a lawyer or lawyers in a law partnership, professional corporation, sole proprietorship or other association authorized to practice law; or lawyers employed in a legal services organization or the legal department of a corporation or other organization. [Rule 1.0(c) (emphasis added).]

“Rule(s).” Refers to the Delaware Lawyers’ Rules of Professional Conduct.

**ACCOUNTS AND ACCOUNT INFORMATION REQUIRED TO BE DISCLOSED:**

- Any escrow accounts established and maintained in connection with rendering legal services, except as noted below, including accounts where unearned legal fees are deposited;
- Any escrow accounts in which the funds of clients and/or third parties are pooled;
- Any estate accounts, where an attorney has signatory authority and/or control of funds, except for which disclosure is not required as provided herein below;
- Any real estate accounts, used exclusively for real estate transactions.

**DISCLOSURE NOT REQUIRED, notwithstanding above requirements:**

- Where there is a separate trust agreement, the terms of which set forth the responsibility and powers of the trustee with respect to the funds held;
- Where a court of competent jurisdiction, such as a bankruptcy court, supervises the responsibilities, power, and control of the fiduciary over the funds held.

**Please remember to sign and date your Certificate of Compliance.** Your Certificate of Compliance will not be accepted for filing unless it is signed. An unsigned Certificate of Compliance will be returned to you for signature.



**Please return your Certificate of Compliance stapled separately with the Annual Registration Statement (Detach these instruction sheets when filing your Certificate of Compliance) to:**

**Delaware Supreme Court  
P. O. Box 476  
Dover, DE 19903**

**(Questions? about the Certificate of Compliance: Call Bunny Christopher, Executive Director, LFCP, at (302) 577-7034.)**

**2010**  
**DELAWARE SUPREME COURT**  
**CERTIFICATE OF COMPLIANCE**  
**IDENTIFYING INFORMATION**

(Please Print or Type using only blue or black ink. All identifying information must be provided.)

Name: \_\_\_\_\_

Supreme Court ID No: \_\_\_\_\_

Firm/Office Name/Corporation Name: \_\_\_\_\_

Address: \_\_\_\_\_ P.O. Box: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ County: \_\_\_\_\_

Telephone: (\_\_\_\_) \_\_\_\_\_

Fax: (\_\_\_\_) \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

**Section One COC: TO BE COMPLETED BY ALL ACTIVE DELAWARE LAWYERS**

**DECLARATION REGARDING PRACTICE**

- (1) ☐ I am not engaged in the practice of law in Delaware.  
(Certify by signing below.) **(Submit Section One only.)**
- (2) ☐ I am engaged in the practice of law in Delaware, and (select **one** of the following):
- (A) ☐ My entire compensation derived from the practice of law is received in my capacity as an employee or independent contractor handling legal matters of a corporation(s) or government entity or agency, AND I am not responsible for funds or property of any person(s) except that of my employer. (Certify by signing below.) **(Submit Section One only.)**
- OR**
- (B) ☐ My entire compensation derived from the practice of law is received in my capacity as an employee or independent contractor of a real estate settlement service, title company, or similar entity which provides legal services and as part of the legal services holds funds for clients and/or third persons. (Certify by signing Section Four.) **(Complete and Submit Sections Two, Three and Four.)**
- OR**
- (C) ☐ I am NOT responsible for the maintenance of financial books and records required to be disclosed herein as the managing partner of a firm or otherwise; I am relying upon the 2010 Certificate of Compliance submitted by the following member of the Delaware Bar:  
Name: \_\_\_\_\_  
Supreme Court ID No.: \_\_\_\_\_  
Firm: \_\_\_\_\_  
(Certify by signing below.) **(Submit Section One only.)**
- OR**
- (D) ☐ I am responsible for the maintenance of financial books and records required to be disclosed herein as the managing partner of a firm or otherwise. (Certify by signing Section Four.) **(Complete and Submit Sections Two, Three and Four.)**
- OR**
- (E) ☐ I am responsible for the maintenance of financial books and records required to be disclosed herein as the managing partner of a firm and this firm is not responsible for funds or property of any person in a fiduciary capacity. (Certify by signing Section Four.) **(Complete and Submit Sections Two, Three and Four.)**
- OR**
- (F) ☐ My practice of law is limited to uncompensated services to clients of one or more legal assistance programs AND I am not responsible for funds or property of any person in a fiduciary capacity **(Submit Section One only.)**

**I HEREBY PERSONALLY CERTIFY TO THE DELAWARE SUPREME COURT THAT THE INFORMATION CONTAINED HEREIN IS TRUE AND CORRECT.**

Signature \_\_\_\_\_ Date \_\_\_\_\_

**Section Two COC: TO BE COMPLETED BY ACTIVE DELAWARE LAWYERS WHO ARE ENGAGED IN THE PRACTICE OF LAW IN DELAWARE and WHO ARE RESPONSIBLE FOR THE MAINTENANCE OF FINANCIAL BOOKS AND RECORDS REQUIRED TO BE DISCLOSED HEREIN AS THE MANAGING PARTNER OF A FIRM OR OTHERWISE Per Section One, (2)(B)(D) or (E)**

**PLEASE ANSWER EACH QUESTION YES OR NO AS TO ACCOUNTS REQUIRED TO BE DISCLOSED HEREIN.**

1. All federal, state and local payroll, gross receipts, and income taxes required to be filed have been filed and all taxes due thereon have been paid on a timely basis.  
**NOTE:** If answering "NO", provide specific information in an attached letter, including which taxes were not filed or paid, the amounts of taxes due and the periods involved. ☐ Yes ☐ No ☐ N/A
  
2. Rule 1.15A account designation.
  - (A) Attorney trust/escrow account(s) are maintained ONLY with financial institutions that have agreed to comply with overdraft notification and which are identified by the Lawyers' Fund for Client Protection as Rule 1.15A-designated institutions. ☐ Yes ☐ No ☐ N/A
  
  - (B) Each attorney trust/escrow account maintained is expressly designated on bank statements as a Rule 1.15A account in the account title.  
**NOTE:** If an attorney trust/escrow account is not titled as a Rule 1.15A account on the bank statement, you are required to attach a letter of explanation to your Certificate of Compliance, and you are also required to submit a copy of a bank statement after the financial institution correctly identifies the account as a Rule 1.15A account in the account title. ☐ Yes ☐ No ☐ N/A
  
3. Any and all fiduciary funds held are maintained in an attorney trust/escrow account and in accordance with Rule 1.15(a) which requires fiduciary funds held in connection with the practice of law in Delaware be kept in separate account designated solely for the Delaware practice. ☐ Yes ☐ No ☐ N/A
  
4. A separate bank account is maintained for non-fiduciary funds. Said account(s) is(are) expressly designated as 'attorney business account' or 'attorney operating account.' ☐ Yes ☐ No ☐ N/A

5. Other than the minimum amount of non-fiduciary funds allowable (no more than \$1000 to cover bank service charges), only funds held in a fiduciary capacity are held in any attorney trust/escrow account. Other funds, including earned fees, are not commingled with escrow funds. ☐ Yes ☐ No ☐ N/A
6. Check register balances for all bank accounts are reconciled monthly to bank statement balances. ☐ Yes ☐ No ☐ N/A
7. With respect to attorney trust/escrow account(s), there is a client subsidiary ledger maintained with monthly listings of client balances stating client name, balance, cash receipt and cash disbursement transactions, and the total of all client balances. ☐ Yes ☐ No ☐ N/A
8. With respect to the client subsidiary ledger of the attorney trust/escrow account(s), negative balances did not exist OR if a negative balance did exist for any client, then a timely transfer was made from the operating or business account to cover the negative balance. ☐ Yes ☐ No ☐ N/A
9. With respect to attorney trust/escrow account(s), the reconciled end-of-month cash balance agrees with the total of the client balance listing of the client subsidiary ledger. ☐ Yes ☐ No ☐ N/A
10. With respect to attorney trust/escrow account(s), all fiduciary funds are identified. ☐ Yes ☐ No ☐ N/A
11. With respect to attorney trust/escrow account(s), I have reviewed the fiduciary funds held, or caused them to be reviewed by the responsible attorney, and determined that they should continue to be held, and have rejected the need to disburse the funds or transfer the funds to a separate interest bearing account. ☐ Yes ☐ No ☐ N/A
12. With respect to attorney trust/escrow account(s), for those fiduciary funds which should be disbursed and for which checks have been issued in an attempt to disburse funds, all checks have cleared within six months from the date of issuance OR for each check which has not cleared within six months, steps are promptly being taken to contact the payees to determine the reason the checks were not deposited, and replacement checks are being issued, as necessary and appropriate; with regard to abandoned or unclaimed trust funds, these account(s) comply with Supreme Court Rule 73.  
(State "N/A" to Questions 13 and 14 if a computer system is used.) ☐ Yes ☐ No ☐ N/A

13. A manual system is used to comply with Rule 1.15. Cash receipt and cash disbursement journals are maintained for each bank account for the recording of fiduciary and non-fiduciary transactions; and transaction columns are totaled and balanced each month. ☐ Yes ☐ No ☐ N/A

14. A manual system is used to comply with Rule 1.15. A general ledger is used; OR a reconciled monthly cash balance for each bank account is obtained by matching totals from the cash receipts and cash disbursement journals to the ending check register balance. ☐ Yes ☐ No ☐ N/A

(State 'N/A' to Question 15 if a manual system is used.)

15. A computer system is used to comply with Rule 1.15. A hard copy of all financial records is printed each month or an electronic back up of these documents is created each month as required by Rule 1.15. ☐ Yes ☐ No ☐ N/A

**Section Three COC:**

**BANK ACCOUNTS TO BE IDENTIFIED BY ACTIVE DELAWARE LAWYERS WHO ARE ENGAGED IN THE PRACTICE OF LAW IN DELAWARE and WHO ARE RESPONSIBLE FOR THE MAINTENANCE OF FINANCIAL BOOKS AND RECORDS REQUIRED TO BE DISCLOSED HEREIN AS THE MANAGING PARTNER OF A FIRM OR OTHERWISE Per Section One , (2)(B)(D) or (E).**

1. Identify herein, or on a document attached hereto and incorporated herein, the following information for each attorney trust/escrow account required to be disclosed herein (i) which you or an attorney or an employee may draw on and/or has signatory authority, and (ii) in which funds of clients or other persons not associated with your firm are placed. **Your identification of attorney trust/escrow accounts should include not only accounts open in 2010, but also any accounts open at any time during calendar year 2009.**

- (a) Financial Institution: \_\_\_\_\_
- (b) Title of Attorney Trust/Escrow Account: \_\_\_\_\_  
**(Complete account title, as it appears on bank statements, which must include designation in the title as a “Rule 1.15A Attorney Trust Account” or “1.15A Trust Account” or “Rule 1.15A Attorney Escrow Account” or “1.15A Escrow Account”) NOTE: Pursuant to Rule 1.15(a), fiduciary funds must be kept in a separate account designated solely for funds held in connection with the practice of law in Delaware. There should be no fiduciary funds in this account held in connection with the practice of law in another jurisdiction.**
- (c) Account Number: \_\_\_\_\_
- (d) Is it an IOLTA account? \_\_\_\_\_

2. Identify herein, or on a document attached hereto and incorporated herein, the following information for each account in which funds are held (operating or business accounts) in connection with the practice of law, which you or an attorney or an employee may draw on and/or has signatory authority. **Your identification of attorney operating/business accounts should include not only accounts open in 2010, but also any accounts open at any time during calendar year 2009.**

- (a) Financial Institution: \_\_\_\_\_
- (b) Title of Attorney Business (or Operating) Account: \_\_\_\_\_  
**Complete account title, as it appears on bank statements, checks, and deposit slips)**
- (c) Account Number: \_\_\_\_\_

3. Identify the address(es) where the books and records for accounts required to be disclosed herein are located. \_\_\_\_\_

4. Identify the name and business address of the person(s) who maintain(s) the books and records for accounts required to be disclosed herein. \_\_\_\_\_

**Section Four COC: PERSONAL CERTIFICATION TO BE COMPLETED BY ACTIVE DELAWARE LAWYERS WHO ARE ENGAGED IN THE PRACTICE OF LAW IN DELAWARE and WHO ARE RESPONSIBLE FOR THE MAINTENANCE OF FINANCIAL BOOKS AND RECORDS REQUIRED TO BE DISCLOSED HEREIN AS THE MANAGING PARTNER OF A FIRM OR OTHERWISE Per Section One, (2) (B)(D) OR (E).**

- (1) I hereby certify to the Delaware Supreme Court that the information contained herein is true and correct.
- (2) Before preparing this Certificate of Compliance, I hereby certify that I personally reviewed Rules 1.15 and 1.15A of the Delaware Lawyers' Rules of Professional Conduct and the comments thereto.
- (3) I hereby certify that this Certificate of Compliance accurately reflects compliance with the requirements of Rules 1.15 and 1.15A, regarding the accounts required to be disclosed herein.
- (4) I hereby certify that I have identified all banks or other places in which accounts are maintained which an attorney or an employee may draw on and/or for which an attorney or an employee has signatory authority, required to be disclosed herein.

Signature \_\_\_\_\_

Date \_\_\_\_\_

**PRE-CERTIFICATION (optional)**

**My Certification is based upon my own review, as well as the pre-certification attached hereto by the following independent certified public accountant, pursuant to the procedures set forth in Rule 9 of the Lawyers' Fund for Client Protection:**

Name: \_\_\_\_\_

Firm: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone no.: \_\_\_\_\_

Fax no.: \_\_\_\_\_

E-mail address: \_\_\_\_\_